

## REMARKS / ARGUMENTS

In response to the office action of March 31, 2009, Applicants have amended the claims, which when considered with the following remarks, is deemed to place this application in condition for allowance. Favorable consideration of all pending claims is respectfully requested.

In the March 31<sup>st</sup> office action, the Examiner has objected to claim 11 because there should be a space between "claim" and "2" in the penultimate line. By this amendment, a space has been inserted. Withdrawal of the objection to claim 11 is therefore respectfully requested.

Claims 1-6 and 9-17 have been rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. It is the position of the Examiner that for both the elected species, (S)-2-Amino-3-methyl-butyric acid (1S,2S,4S)-2-amino-1-[(S)-2-(2-carbamoyl-2-methyl-propylcarbamoyl)-3-methyl-butyl]-4-[4-methoxy-3-(3-methoxy-propoxy)-benzyl]-5-methyl-hexyl ester, hereinafter "ES", and for compounds of formula (IB), the specification provides several example syntheses but such examples do not disclose a starting material that is known or commercially available.

Applicants respectfully submit that claim 5 has been amended to indicate a compound of formula IC rather than IB. Support for the amendment may be found throughout the specification, e.g., paragraph [0051] of the published application, where the differences in compound IB and IC are immediately apparent and where the previous designation of formula IB for the compound recited in claim 5 was a clerical error.

It is respectfully submitted that the specification of the application is replete with information on the synthesis of a compound of formula I, using publicly available starting materials. With respect to the synthesis of ES, Applicants direct the Examiner to paragraphs [0138] to [0146] where the synthesis of ES is set forth using publicly available starting materials.

In view of the amendments to claims 1 and 5 and the remarks hereinabove, withdrawal of the rejection of claims 1-6 and 9-17 under the enablement provision of 35 U.S.C. §112, first paragraph, is respectfully requested.

Claims 1 and 3 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Dondoni et al. (*Tetrahedron Letters*, 2001, vol. 41, pages 4819-4823). Dondoni et al. discloses a new synthetic approach to SPP100 (compound of formula 1), its C-5 epimer (compound of formula 9) and C-4/C-5 bis-acetylated derivatives thereof (compounds 1a and 9a respectively). As presently amended, claim 1 no longer recites N-C1-C7-alkanoyl-amino in the definition of R6 for the compound of formula (I). The presently claimed invention is therefore distinguished from Dondoni et al. and withdrawal of the rejection of claims 1 and 3 under 35 U.S.C. § 102(b) is therefore respectfully requested.

In view of the foregoing remarks and amendments, it is respectfully submitted that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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